

AGENDA
TOWN OF QUARTZSITE
465 NORTH PLYMOUTH AVENUE, QUARTZSITE, AZ, 85346
REGULAR MEETING OF
PLANNING & ZONING COMMISSION
MUNICIPAL BOARD
TUESDAY, APRIL 16, 2013 AT 4:00 PM

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Commissioner: Jim Murphy

Commissioner: Dennis Kuehl

Commissioner: Jesse Hearne

Commissioner: Norm Simpson

Commissioner: Barbara Bowman

Commissioner: Jennifer Jones

APPROVAL/AMENDMENT OF AGENDA:

MINUTES:

Approve Minutes: January 15, 2013 – Regular Meeting; February 15, 2013 – Special Meeting; March 5, 2013 – Work Session and March 19, 2013 – Work Session.

NEW BUSINESS:

1. Action to elect a Chairman and Vice Chairman.
2. Discussion and possible action regarding the 2013 General Plan Update Process including creating a tentative schedule.
3. Review discussion and approval of settlement terms with the Office of the Arizona's Attorney General regarding the failure to post meeting minutes for the Town Council Advisory Boards and Committees within required timelines.

ADJOURNMENT:

HANDICAPPED ACCESSIBLE
COMMISSION MAY NOT ACT ON ITEMS NOT ON THE AGENDA

Certificate of Posting

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Quartzsite Town Hall, 465 N. Plymouth Ave., Quartzsite, AZ, U.S. Post Office, 80 W. Main Street, Quartzsite, AZ and The Senior Center, 40 Moon Mountain Ave., Quartzsite, AZ, on the _____ day of _____ 2013 at _____ a.m. / p.m. in accordance with the statement filed by the Town of Quartzsite with the Town Clerk, Town of Quartzsite.

By: _____
Town Clerk's Office

MINUTES
TOWN OF QUARTZSITE
465 NORTH PLYMOUTH AVENUE, QUARTZSITE, AZ, 85346
REGULAR MEETING OF
PLANNING & ZONING COMMISSION
MUNICIPAL BOARD
TUESDAY, JANUARY 15, 2013 AT 4:00 PM

CALL TO ORDER: By Chairman Douglas Ross at 4:00 PM

PLEDGE OF ALLEGIANCE: All led by Chairman Douglas Ross

Roll Call

Present: Chairman Douglas Ross, Vice Chairman Violet Kiss, Commissioner Barbara Bowman, Commissioner Dennis Kuehl, Commissioner Jim Murphy, Commissioner Dennis Wall, and Commissioner Starr Bearcat.

APPROVAL OF MINUTES:

Motion: Motion to approve as written, Action: Approve, Moved by Commissioner Jim Murphy, Seconded by Commissioner Barbara Bowman.

Vice Chairman Violet Kiss asked that it be put in the minutes that she asked Jesse Hearne what he meant by '25 years licensed general contractor'. "Since you stated you were a general contractor what states were you licensed in?" asked Vice Chairman Violet Kiss. Jesse Hearne's reply was that he was a logger contractor. Vice Chairman Violet Kiss stated that she thinks this should be brought up to the Council. Motion passed unanimously.

REPORTS:

Report by Beth Praast on work sessions on the Planning and Zoning Development Procedures, Planning and Zoning Ordinances, do we want to raise current fees, do we want to update Codes from the 2006 to the 2008 codes, and review of the General Plan. Steve Henrichs will review the current codes and check the difference between the 2006 and 2008 codes.

A work session is scheduled for Tuesday, January 29, 2013 at 4pm on ordinances that are conflicting.

CALL TO THE PUBLIC: No response from the public.

NEW BUSINESS:

1. **CUP-122712-1: Location: 335 Joshua Street, Quartzsite, AZ, 85346. APN: 306-19-017B. Applicant: Guff & Jennifer Brown. Request: Conditional Use to comply with Town Zoning Codes for the purpose of building or assembling tornado shelters then shipping them out and restoring autos.**

Discussion/Possible Action

Chairman Douglas Ross asked Guff Brown to explain the shelters. Commissioner Jim Murphy asked what the weight of the shelter was. Chairman Douglas Ross asked if they would be stored on property or shipped out. Guff Brown stated they

would be shipped out. Commissioner Dennis Kuehl asked what they would come in on. Guff Brown stated, "A flatbed trailer". Commissioner Starr BearCat asked if the autos' restoration would be for him or others. He stated it was a hobby but he does barter work for others. Commissioner Starr BearCat asked about noise. Guff said most of the drilling would be inside a building and not cause much noise. Commissioner Starr BearCat asked about the weight of the shelter. Beth Praast stated that Guff said there would not be any semis on the road. Beth Praast also stated she wondered what he wasn't in compliance with and then stated it was to comply with materials at his address. The shelter pieces are about one foot wide. Commissioner Starr BearCat asked if the town gets any sales tax for this. This is not for resale. Beth Praast read the restriction set in the conditional use permit. Vice Chairman Violet Kiss requested a fire inspection report be done. Commissioner Dennis Kuehl asked if he would be manufacturing or assembling. Mr. Brown said it would be assembling. Commissioner Starr Bearcat would like to have fireproof storage for flammable or toxic products. Commissioner Starr BearCat asked for a sunset clause (if he sells the property it goes back to SR). Commissioner Jim Murphy stated he drives by 3-5 times a day and never hears anything.

Motion: Made motion to pass CUP 122712-1 Location 335 Joshua St, Qtz, AZ 85346 APN 306-19-017B with stipulations as indicated, Action: Approve, Moved by Commissioner Starr BearCat, Seconded by Commissioner Barbara Bowman.

Open for Public Discussion

Carolyn Guthrie spoke on the subject.

Floyd Anderson Spoke on the subject.

Vote: Motion passed (summary: Yea = 4, Nay = 2, Abstain = 1). Yea: Chairman Douglas Ross, Commissioner Barbara Bowman, Commissioner Dennis Kuehl and Commissioner Jim Murphy. Nay: Vice Chairman Violet Kiss and Commissioner Dennis Wall. Abstain: Starr Bearcat.

ADJOURNMENT: 4:51 PM

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of January 15, 2013, of the Planning and Zoning Commission of Quartzsite, Arizona.

I further certify that the meeting was duly called and held and that a quorum was present.

Dated this 16th day of April 2013.

Tina M. Abriani, Clerk

**MINUTES
TOWN OF QUARTZSITE
WORK SESSION MEETING OF
PLANNING & ZONING COMMISSION
TUESDAY, MARCH 5, 2013 AT 4:00 PM**

CALL TO ORDER: 4:01 p.m. – by Acting Chairperson Jim Murphy.

PLEDGE OF ALLEGIANCE: Acting Chairperson Jim Murphy led the Pledge of Allegiance

ROLL CALL:

Commissioner Jim Murphy, present
Commissioner Jesse Hearne, present

Commissioner Dennis Kuehl, present
Commissioner Norm Simpson, present

Town of Quartzsite staff present: Steve Henrichs, Community Development Services and Tina Abriani, Secretary

Motion made by Commissioner Dennis Kuehl to continue the meeting after the work session. Commissioner Norm Simpson seconded the motion. Motion passed.

SUBJECT OF WORK SESSION:

1. Training with Mark Goldberg on the Basics of Planning & Zoning.

Mark Goldberg introduced himself: Over thirty years in Planning & Zoning. He has written codes and dealt with jurisdictional issues.

Overview:

Zoning allows the town to contribute to the protection of the public health, safety and general welfare.

Zoning regulations are adopted and amended by ordinance.

Zoning is defined as “uniform.” Consistently applied uniformity of application assures that all landowners are treated the same under the law and that no capricious or special favors are granted to individuals.

The zoning ordinance provides clear standards and expectations for anyone coming to the town who wants to build something or operate a business.

General Process

A Public Hearing is held at the Planning & Zoning Commission level, generally resulting in a recommendation to the Town Council.

Through this process, the public has an opportunity to give their input at both the Planning & Zoning level and the Town Council level.

Structure of a ‘Zone’ (in the zoning code)

Purpose Statement – a simple statement of what the objective is of the zone being applied.

Procedures Common to Most Zones

Non-Conforming Uses – How to deal with uses which were legally constructed prior to current regulations. An amortization period is defined after which the use must be made to conform to current regulations. Illegally constructed uses do not enjoy non-conforming privileges.

Illegal Non-Conforming Use – Something built without any permits and may have never met any building code, fire code or drainage requirements. It has no standing in terms of the town's laws. It does not have the right to amortize.

Temporary uses – Standards and limitations for temporary uses in a zone. Uses which may be permitted for a limited period of time, for example, yard sales.

Home Occupations – There are provisions for conducting business in the home. The importance being the weight of its residential character, such as traffic and signage,

Zone Changes – Procedures and mandatory findings listed for modifying a zoning designation on a piece of property.

Variances – Procedures and findings to grant exceptions to zoning development standards, based on physical hardship.

Determination of Use - Procedures for determining if an unlisted use can be included in permitted or conditionally permitted uses in a zone. It is a way of accommodating people that have a reasonable request and something minor in nature.

Administration of Zoning -

Once zoning is applied throughout the town, it serves as the standards for development. When a developer or individual comes to the town, he can build with confidence knowing what uses are permitted where and what development standards are expected and required.

The goal of the town at the point of development is to see that the development meets the permitted uses and standards set forth in the designated zone. The Planning & Zoning Commission and Town Council are usually not involved in routine new development decisions, since the development must conform to standards which the Town had already adopted. At that point, it is an administrative process where staff assures that the zoning and building code standards are met as development proceeds.

Staff evaluates consistency with adopted city plans: General Plan, Flood Control, Building Codes, Fire Codes and Zoning Ordinances.

The Planning and Zoning Commission and Town Council are involved in the creation and adoption of the standards; modification of the standards and special considerations like conditional uses, change of zone, or variances.

Ordinance Amendment Procedure

- * Reasonable Request
- * Staff brings it before the Planning & Zoning Commission
- * Advertise a Public Hearing saying there is a possible amendment to the ordinance (which means amending the law.)
- * The Planning & Zoning Commission would make a recommendation to the Town Council.
- * The Town Council votes on the final action.
- * Once the Town Council adopts the ordinance, it becomes law.

Discretion is involved with: Special Permits, i.e., Conditional Use, Variances and Determination of Use. The Planning & Zoning Commission will use its knowledge of the community and the surroundings to apply discretion and make recommendations as to 'does it fit our ordinance?'

Generally a Conditional Use will have findings. In order to grant a Conditional Use you would find:

1. The use is permitted in the zone and the codes are satisfied.
2. That the use is compatible with its surroundings.
3. That conditions have been applied that are reasonable and make it compatible with its surroundings and therefore can be approved because all conditions have been met.

Variances have findings, too. In order to grant a variance there are usually at least three findings and sometimes more.

1. It is not granting a special privilege not enjoyed by everyone else in the neighborhood.
2. It is not a self-imposed hardship.
3. There is an exceptional reasonable basis for the request.

Protecting public health, safety and welfare are the basis for codes.

ADJOURNMENT: 5:17 PM

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of March 5, 2013, of the Planning and Zoning Commission of Quartzsite, Arizona.

I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 16th day of April 2013.

Tina M. Abriani, Clerk

**MINUTES
TOWN OF QUARTZSITE
WORK SESSION OF THE COMMON COUNCIL
AND PLANNING AND ZONING COMMISSION
TUESDAY, MARCH 19, 2013 3:45 PM**

CALL TO ORDER:

3:46 PM by Mayor Foster

INVOCATION:

None

PLEDGE OF ALLEGIANCE:

Vice Mayor Jewitt led the pledge of allegiance

ROLL CALL:

Present: Mayor Foster, Vice Mayor Jewitt, Council Member Anderson, Council Member Kelley, Council Member Crooks, Council Member Workman, Council Member Orgeron.

APPROVAL/AMENDMENT OF AGENDA:

Motion: Motion to approve agenda as written. Action: Approve, Moved by Vice Mayor Jewitt, Seconded by Council Member Anderson. Motion passed unanimously.

RECESS

3:47 PM Council took short recess to wait for Planning & Zoning Commission to come to order.

RECONVENE

3:56 PM Council reconvened.

CALL TO ORDER of the Planning and Zoning Commission:

3:59 PM by Commissioner Murphy

P&Z ROLL CALL:

Present: Commissioner Jim Murphy, Commissioner Dennis Kuehl, Commissioner Jesse Hearne, Commissioner Norm Simpson.

Norm Simpson moved to adjourn to a work session and Dennis Kuehl seconded the motion. Call for the vote. All ayes.

Mark Goldberg reviewed his qualifications to conduct the work session.

Review of the last session: zoning is there to protect the public health, safety and welfare of the community. It is enabled by state and federal law that basically says that you have the right to regulate on behalf of your citizens and adopt legislation that does regulate land use and protect the public health, safety and welfare.

All the provisions in the code are basically based on something that happened in some point in time. There is a reason for setbacks; there is a reason for height limitations, etc. Basically everything in the code has a purpose.

There are two pieces to zoning. There is a zoning map that puts it on the ground and says where everything is and there is a book that has all the standards for zoning, such as the height regulations and development standards within it.

FOCUS OF TODAY'S PRESENTATION: What do planning and zoning boards and commissions do; what are the tools; what are the boards' and commissions' charges?

Topics for today are Zone Changes and Amendments; Special Use Permits: Conditional Use Permits and Variances are the two keys ones. Also, there will be some discussion of conditions of approval because both of the conditional use permits and the variances involve conditions of approval.

Mark asked for questions, the Mayor asked about Prop. 207 enacted in 2006.

One of the key things that will hold up decisions are findings. We are doing this based on these facts..... The more you make findings in fact, the less you are going to be challenged in court.

Development Procedure Ordinance – Review of the function of local boards. Basically the city council adopts the ordinances and laws for the city through the public hearing process where there are public hearings, both at the planning commission level and at the city council, in order to get those laws in place. Once the laws are in place, it really becomes an administrative issue.

The applicant has the right of appeal on a denial. The denial must be based on code.

Codes can be amended. There are two different kinds of changes. One is in the boundaries on the zoning map where you change the zone on a particular property or an area. The second is changing the standards within the written book. The procedure is the same for both, entailing a public hearing and public notice and so forth.

Mark suggested that a findings requirement for an amendment to the code or a zone change on a particular parcel, be added to the ordinance.

Special use permits: conditional use permits and variances. THESE RUN WITH THE LAND and are not personal to an applicant. As a land use issue, it must operate in conjunction with the conditions. It is granted in perpetuity as long as they comply with the conditions. Make sure your conditions are enforced and periodically go back and check to be sure conforming.

Land uses permitted within a zoning district are listed in zoning code.

A variance does not change the zoning; so it cannot permit uses other than those already allowed under the existing zoning. Variances are based on the physical constraints of the land. They are used when there is something physical about the property, not the owner's fault, causing hardship or preventing the owner from having the same privileges as others in the same zone.

The findings whether the application is granted or denied, list substantiated reasons for the decision. Variances do not set precedents.

A request for a variance cannot be granted based on self-imposed conditions- don't use variances to grant special privileges.

At some point in time the Town may wish to examine the neighborhoods and have them come into compliance within a reasonable length of time in which to do it.

Assess what you have in the whole neighborhood and make a plan to bring it into compliance. The Town may wish to permit en masse as long as it does not adversely affect the health, safety and welfare.

An essential key is to have procedures that you can follow, in place before anyone walks in the door.

The process would normally go as follows: Applicant files an application with staff, pays fee and staff prepares a staff report considering what the general plan says and whether or not it meets the conditions of the zoning. Staff will be sure it also development standards such as setbacks and parking. All applicable departments should look at it and decide if it meets their codes. Then the staff makes its findings and lists them. They will look at the site and analyze it, scrutinize every point of the ordinance. This is done for every single condition.

Once staff has done its job, the matter goes to public hearing. Staff can recommend list of conditions to make it compatible with the neighborhood. The public hearing will let the applicant speak.

Everyone expresses their views, including the public.

After the public hearing it goes before the planning & zoning commission.

The commission must weigh what the public has said, what staff has said and reviewed the findings one by one. The commission will make its decision and this goes before the council as a recommendation.

Administrators and commissioners are here to worry about the health, safety and welfare of the public.

ADJOURNMENT:

The Mayor adjourned the council work session at 5:27 PM.

Commissioner Jim Murphy adjourned the Planning and Zoning work session at 5:28 PM.

CERTIFICATION:

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session of March 19, 2013, of the Town Council and Planning and Zoning Commission of Quartzsite, Arizona.

I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 26th day of March, 2013

Terry Frausto, Town Clerk

On behalf of the Common Council

Approved:

Ed Foster, Mayor

Town of Quartzsite
 GENERAL PLAN CALENDAR
 (proposed)

Date	Activity
April 16th	Begin Formal Discussion at Regular P&Z Meeting
April 30th	Follow up on items of concern from April 16th
May 1st	Submit RFP
May30th	Review RFP with Council to select Vendor and seek approval to proceed
June 17th	Selection and contract with Vendor
Mid July	Progress report/ moves, changes
Aug 14th	Progress report/ moves, changes
Sept.17th	Progress report/ moves, changes
Oct. 1st	Review of General Plan
Oct. 15th	All revisions/corrections returned for corrections
Oct. 30th	All revisions/corrections must be completed
Nov 15th	Adoption of final General Plan at Regular Council Meeting



TOM HORNE
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
CHILD AND FAMILY PROTECTION DIVISION
CIVIL AND CRIMINAL LITIGATION AND ADVICE SECTION

KEVIN R. SMITH
ASSISTANT ATTORNEY
GENERAL
(602) 542-9758

August 9, 2012

(Via Mail and E-mail: townattorney@ci.quartzsite.az.us)

Martin Brannan
Town Attorney
Town of Quartzsite
P.O. Box 2812
Quartzsite, Arizona 85346-2812

RE: Open Meeting Law Complaints Regarding Hi Jolly Cemetery Board; Centennial Committee; Health and Development Services Board; Municipal Library Board; Municipal Utility Administrative Committee; Personnel Board; and RV Parks, Swap Meets and Vendor Board.

Dear Mr. Brannan:

Thank you for your assistance during the investigation of the Open Meeting Law complaints which were filed against the seven Town of Quartzsite ("Town") Advisory Boards and Committees listed above, hereinafter collectively referred to as the "Advisory Bodies". This letter will serve as formal notice that the Arizona Attorney General's Office ("Office") has concluded its review of the complaints and the information you provided. Based upon the information reviewed our Office has determined that each of the Advisory Bodies did violate Arizona Open Meeting Law by failing to post their meeting minutes within the time frames required by statute.

Violation

1. Failure to Post Meeting Minutes Within Required Timeframes:

A.R.S. § 38-431.01(E) states:

A public body of a city or town with a population of more than two thousand five hundred persons shall:

1. Within three working days after a meeting, except for subcommittees and advisory committees, post on its website, if applicable, either:
 - (a) A statement describing the legal actions taken by the public body of the city or town during the meeting.
 - (b) Any recording of the meeting.
2. Within two working days following approval of the minutes, post approved minutes of city or town council meetings on its website, if applicable, except as otherwise specifically provided by this article.
3. Within ten working days after a subcommittee or advisory committee meeting, post on its website, if applicable, either:
 - (a) A statement describing legal action, if any.
 - (b) A recording of the meeting.

The seven complaints our office received, one regarding each of the Advisory Bodies, indicated that each of them had held one or more meetings during the period between March 6, 2012, and June 14, 2012, for which minutes had not been posted on the Town website within the time frames required by A.R.S. § 38-431.01(E). Our own review of the Town website indicated that as of July 13, 2012, minutes still had not been posted for any of the relevant meetings.

I contacted you and sent you copies of the seven complaints our Office received. After reviewing the complaints and doing your own investigation, you indicated that it appeared that the Advisory Bodies had failed to post the meeting minutes as required by statute. You also further explained that the Advisory Bodies do not meet regularly during the summer months and that minutes are not generally posted until they have been approved by the Advisory Bodies at their next regular meeting.

Based upon the above information, our Office has determined that each of the Advisory Bodies involved violated the Open Meeting Law by failing to post their meeting minutes for the relevant meetings within the time frames required by A.R.S. § 38-431.01(E). However, we do not find that there was any bad intent on the part of any of the Advisory Bodies in failing to do so.

Settlement

It appears that the failure to timely post minutes of the Advisory Bodies' meetings was the result of the regularly occurring summer breaks these Advisory Bodies take and a lack of knowledge on their part of ways to post minutes pending the formal approval of such minutes. As part of our communications, you and I discussed ways of posting "draft" or "unapproved" minutes pending the approval of such minutes by the bodies involved. Such practice is specifically addressed in Chapter 7.8.1 of the Arizona Agency Handbook published by our Office. You have indicated that you will be conducting Open Meeting Law training with the Advisory Bodies upon their return from the summer break in this regard. We also note that since our discussions, steps

Town of Quartzsite
August 9, 2012
Page 3

have been and continue to be taken to post "draft" minutes for some of the Advisory Bodies' meetings at issue on the Town of Quartzsite website. We understand that some of the relevant meeting minutes may not be available until the Advisory Bodies return, but we acknowledge the efforts to post the "draft" minutes for those meetings where it is feasible to do so.

Our Office believes that the planned training in addition to adopting a system of posting minutes marked as "draft" or "unapproved" pending their formal approval is an acceptable means of addressing the violations. In addition our Office also requires the following:

- That this letter and the proposed settlement shall be appropriately noticed on the agendas of the next regular meeting for each of the Advisory Bodies involved. The letter will be read aloud, discussed, and copies of the letter shall be made available to members of the public. The letter shall also be approved and/or appropriately ratified by each of the Advisory Bodies at their next regularly scheduled meeting. A copy of the notice and agenda for each of these meetings shall be sent to me at the Arizona Attorney General's Office.

If this proposed agreement is acceptable to the Advisory Bodies, please so indicate by having each of the Advisory Bodies countersign a separate copy of this letter and return them to me on or before September 30, 2012. If this agreement is not acceptable, the Arizona Attorney General's Office will move forward to enforce the Open Meeting Law and seek any appropriate further remedies it deems necessary.

Should you have any further questions, or if you need additional time to comply or respond, please feel free to contact me at the address or phone number listed on this letter.

Sincerely,



Kevin R. Smith
Assistant Attorney General

Cc: Complainant

We, the Members of the _____
agree to the settlement terms set forth in this letter; and we are authorized to enter into this letter
agreement:

By

Legal Counsel

Date

Chairman

Date

Member

Date

HDM-#2824169